



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventors: Hans-Ulrich DEMUTH et al.

Serial No.: 10/735,582

Attorney Docket No.: PBD-00017-C1
20784/4-CON

Filed: December 11, 2003

Art Unit.: 1654

Examiner: not yet assigned

Title: PRODRUGS OF DP IV-
INHIBITORS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: **Mail Stop Amendment**, Commissioner for Patents, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450, on the date appearing below.

OSI Pharmaceuticals, Inc.

By Shu M. Lee
Shu M. Lee

Date 19 July 2006

Mail Stop Amendment
Commissioner for Patents
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

TERMINAL DISCLAIMER TO OBVIATE A PROVISIONAL DOUBLE-PATENTING REJECTION OVER A PENDING SECOND APPLICATION

The owner, Prosidion Limited, of 100 percent interest in the above-referenced application No. 10/735,582 hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application No. 10/735,582, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending second Application No. 10/745,776, filed on September 16, 2002, of any patent on the pending second Application No. 10/745,776. The owner hereby agrees that any patent so granted on the instant application No. 10/735,582 shall be enforceable only for and during such period that it and any patent granted on the second Application No. 10/745,776, are commonly owned. This

agreement runs with any patent granted on the instant application No. 10/735,582 and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application No. 10/735,582 that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 to 156 and 173 of any patent granted on the second Application No. 10/745,776, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: i) expires for failure to pay a maintenance fee, ii) is held unenforceable, iii) is found invalid by a court of competent jurisdiction, iv) is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, v) has all claims canceled by a reexamination certificate, vi) is reissued, or vii) is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

The undersigned is an attorney or agent of record.

Commissioner is authorized to charge \$110.00 in accordance with 37 CFR 1.20(d) and any deficiencies and credit any overpayment to OSI Pharmaceuticals, Inc. Deposit Account No. **50-2783**.

Attorney for Applicants can be reached at the telephone number and address below.

Respectfully submitted,



Shu M. Lee
Attorney for Applicants
Registration No. 41,147
Telephone No. (631) 962-2056
or (516) 924-4035
Fax No. (631) 752-3880

July 19, 2006
OSI Pharmaceuticals, Inc.
41 Pinelawn Road
Melville, NY 11747